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|                                                                                             |                      |                        |            |
|---------------------------------------------------------------------------------------------|----------------------|------------------------|------------|
| <b>TRANSMITTAL<br/>FORM</b><br><br>(to be used for all correspondence after initial filing) | Application Number   | 10/747,038             |            |
|                                                                                             | Filing Date          | December 22, 2000      |            |
|                                                                                             | First Named Inventor | Christopher J. Damien  |            |
|                                                                                             | Art Unit             | 3738                   |            |
|                                                                                             | Examiner Name        | Thomas C. Barrett      |            |
| Total Number of Pages in This Submission                                                    |                      | Attorney Docket Number | 2026-00100 |

| ENCLOSURES (check all that apply)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> Fee Transmittal Form<br><br><input type="checkbox"/> Fee Attached<br><br><input checked="" type="checkbox"/> Amendment/Reply<br><br><input checked="" type="checkbox"/> After Final<br><br><input type="checkbox"/> Affidavits/declaration(s)<br><br><input type="checkbox"/> Extension of Time Request<br><br><input type="checkbox"/> Express Abandonment Request<br><br><input type="checkbox"/> Information Disclosure Statement<br><br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><br><input type="checkbox"/> Response to Missing Parts/<br>Incomplete Application<br><br><input type="checkbox"/> Response to Missing Parts<br>under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)<br><br><input type="checkbox"/> Licensing-related Papers<br><br><input type="checkbox"/> Petition<br><br><input type="checkbox"/> Petition to Convert to a<br>Provisional Application<br><br><input type="checkbox"/> Power of Attorney, Revocation<br>Change of Correspondence Address<br><br><input type="checkbox"/> Terminal Disclaimer<br><br><input type="checkbox"/> Request for Refund<br><br><input type="checkbox"/> CD, Number of CD(s) | <input type="checkbox"/> After Allowance Communication<br>to Group<br><br><input type="checkbox"/> Appeal Communication to Board<br>of Appeals and Interferences<br><br><input type="checkbox"/> Appeal Communication to Group<br>(Appeal Notice, Brief, Reply Brief)<br><br><input type="checkbox"/> Proprietary Information<br><br><input type="checkbox"/> Status Letter<br><br><input checked="" type="checkbox"/> Other Enclosure(s) (please<br>identify below):<br>Acknowledgment postcard<br>copies of four (4)<br>patents & 1 application |
| Remarks                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <b>RECEIVED</b><br><br>DEC 30 2003<br><br>TECHNOLOGY CENTER R3700                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

| SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT |                            |
|--------------------------------------------|----------------------------|
| Firm<br>Or<br>Individual Name              | Marcella D. Watkins 36,962 |
| Signature                                  |                            |
| Date                                       | December 22, 2003          |

| CERTIFICATE OF TRANSMISSION/MAILING                                                                                                                                                                                                                                                                            |                  |      |                   |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|------|-------------------|
| I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on the date shown below. |                  |      |                   |
| Typed or Printed Name                                                                                                                                                                                                                                                                                          | Sandra K. Begley |      |                   |
| Signature                                                                                                                                                                                                                                                                                                      |                  | Date | December 22, 2003 |

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**FEE TRANSMITTAL**  
**For FY 2004**

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT** \$ 00.00**Complete if Known**

|                      |                       |
|----------------------|-----------------------|
| Application Number   | 09/747,038            |
| Filing Date          | December 22, 2000     |
| First Named Inventor | Christopher J. Damien |
| Examiner Name        | Thomas C. Barrett     |
| Art Unit             | 3738                  |
| Attorney Docket No.  | 2026-00100            |

**METHOD OF PAYMENT** (Check all that apply)
☐ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:  
 Deposit Account Number: 03-2769  
 Deposit Account Name: Conley Rose, P.C.
**The Director is authorized to:** (check all that apply)
☒ Charge fee(s) indicated below  
☒ Charge any additional fee(s) during the pendency of this application  
☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account  
☒ Credit any overpayments
**FEE CALCULATION****1. BASIC FILING FEE**

| Large Entity |           | Small Entity |           | Fee Description        | Fee Paid |
|--------------|-----------|--------------|-----------|------------------------|----------|
| Fee          | Code (\$) | Fee          | Code (\$) |                        |          |
| 1001         | 770       | 2001         | 385       | Utility filing fee     | \$       |
| 1002         | 340       | 2002         | 170       | Design filing fee      | \$       |
| 1003         | 530       | 2003         | 265       | Plant filing fee       | \$       |
| 1004         | 770       | 2004         | 385       | Reissue filing fee     | \$       |
| 1005         | 160       | 2005         | 80        | Provisional filing fee | \$       |

**SUBTOTAL (1)** \$**2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE**

| Total Claims       |   | Extra Claims |       | Fee from below | Fee Paid   |
|--------------------|---|--------------|-------|----------------|------------|
| Independent        | * | 20**         | = * x | 18.00          | = \$       |
| Claims             | * | 3**          | = * x | 86.00          | = \$       |
| Multiple Dependent |   |              |       | 290.00         | = \$ 00.00 |

| Large Entity |           | Small Entity |           | Fee Description                                            |
|--------------|-----------|--------------|-----------|------------------------------------------------------------|
| Fee          | Code (\$) | Fee          | Code (\$) |                                                            |
| 1202         | 18        | 2202         | 9         | Claims in excess of 20                                     |
| 1201         | 86        | 2201         | 43        | Independent Claims in excess of 3                          |
| 1203         | 290       | 2203         | 145       | Multiple dependent claim, if not paid                      |
| 1204         | 86        | 2204         | 43        | ** Reissue independent claims over original patent         |
| 1205         | 18        | 2205         | 9         | ** Reissue claims in excess of 20 and over original patent |

**SUBTOTAL (2)** \$

\*\* or number previously paid, if greater; For Reissues, see above

**FEE CALCULATION** (continued)**3. ADDITIONAL FEES**

| Large Entity |           | Small Entity |           | Fee Description                                                            | Fee Paid |
|--------------|-----------|--------------|-----------|----------------------------------------------------------------------------|----------|
| Fee          | Code (\$) | Fee          | Code (\$) |                                                                            |          |
| 1051         | 130       | 2051         | 65        | Surcharge - late filing fee or oath                                        | \$       |
| 1052         | 50        | 2052         | 25        | Surcharge - late provisional filing fee or cover sheet                     | \$       |
| 1053         | 130       | 2053         | 130       | Non-English specification                                                  | \$       |
| 1812         | 2,520     | 1812         | 2,520     | For filing a request for <i>ex parte</i> reexamination                     | \$       |
| 18042        | 920*      | 1804         | 920*      | Requesting publication of SIR prior to Examiner action                     | \$       |
| 1805         | 1,840*    | 1805         | 1,840*    | Requesting publication of SIR after Examiner action                        | \$       |
| 1251         | 110       | 2251         | 55        | Extension for reply within first month                                     | \$       |
| 1252         | 420       | 2252         | 210       | Extension for reply within second month                                    | \$       |
| 1253         | 950       | 2253         | 475       | Extension for reply within third month                                     | \$       |
| 1254         | 1,480     | 2254         | 740       | Extension for reply within fourth month                                    | \$       |
| 1255         | 2,010     | 2255         | 1,005     | Extension for reply within fifth month                                     | \$       |
| 1401         | 330       | 2401         | 165       | Notice of Appeal                                                           | \$       |
| 1402         | 330       | 2402         | 165       | Filing a brief in support of an appeal                                     | \$       |
| 1403         | 280       | 2403         | 140       | Request for oral hearing                                                   | \$       |
| 1451         | 1,510     | 1452         | 1,510     | Petition to institute a public use proceeding                              | \$       |
| 1452         | 110       | 2452         | 55        | Petition to revive - unavoidable                                           | \$       |
| 1453         | 1,330     | 2453         | 665       | Petition to revive - unintentional                                         | \$       |
| 1501         | 1,330     | 2501         | 665       | Utility issue fee (or reissue)                                             | \$       |
| 1502         | 480       | 2502         | 240       | Design issue fee                                                           | \$       |
| 1503         | 640       | 2503         | 320       | Plant issue fee                                                            | \$       |
| 1460         | 130       | 1460         | 130       | Petitions to the Commissioner                                              | \$       |
| 1807         | 50        | 1806         | 50        | Processing fee under 37 CFR 1.17(g)                                        | \$       |
| 123          | 50        | 123          | 50        | Petitions related to provisional applications                              | \$       |
| 1806         | 180       | 1806         | 180       | Submission of Information Disclosure Stmt                                  | \$       |
| 8021         | 40        | 8021         | 40        | Recording each patent assignment per property (times number of properties) | \$       |
| 1809         | 770       | 2809         | 385       | Filing a submission after final rejection (37 CFR § 1.129(a))              | \$       |
| 1810         | 770       | 2810         | 385       | For each additional invention to be examined (37 CFR § 1.129(b))           | \$       |
| 1801         | 770       | 2801         | 385       | Request for Continued Examination (RCE)                                    | \$       |
| 1802         | 900       | 1802         | 900       | Request for expedited examination of a design application                  | \$       |

Other fee (specify)

\*Reduced by Basic Filing Fee Paid

**SUBTOTAL (3)** \$**SUBMITTED BY**

Complete (if applicable)

|                   |                     |                                   |        |           |                   |
|-------------------|---------------------|-----------------------------------|--------|-----------|-------------------|
| Name (Print/Type) | Marcella D. Watkins | Registration No. (Attorney/Agent) | 36,962 | Telephone | (713) 238-8000    |
| Signature         |                     |                                   |        | Date      | December 22, 2003 |

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

**RECEIVED**

DEC 30 2003

TECHNOLOGY CENTER R3700



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 09/747,038  
Applicant : Christopher Damien  
Filed : December 22, 2000  
TC/A.U. : 3738  
Examiner : Thomas C. Barrett  
Docket No. : 2026-00100  
Customer No.:  
Title: Implantable Osteogenic Material

Confirmation No. 4697

*Amend #11  
S. B. K. N. 51  
1/2/04*

*Do not  
enter - TB*

RESPONSE TO FINAL OFFICE ACTION DATED NOVEMBER 21, 2003  
AND AMENDMENT UNDER 37 CFR 1.116

Our File: 2026-00100  
Date: December 22, 2003

Commissioner for Patents  
P. O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

Applicants acknowledge the Final Office Action dated October 21, 2003. In response, Applicants submit the following amendments and arguments and respectfully request that the Examiner reconsider and withdraw the rejections.

**Amendments to Claims** begin on page 2 of this paper.

**Remarks/Arguments** begin on page 7 of this paper.

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DEC 30 2003  
TECHNOLOGY CENTER R3700